

148 FERC ¶ 61,088  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;  
Philip D. Moeller, John R. Norris,  
and Tony Clark.

Entergy Arkansas, Inc.	Docket Nos. ER12-1888-001
Entergy Gulf States Louisiana, L.L.C.	ER12-1890-001
Entergy Louisiana, LLC	ER12-1891-001
Entergy Mississippi, Inc.	ER12-1892-001
Entergy New Orleans, Inc.	ER12-1893-001
Entergy Texas, Inc.	ER12-1894-001

ORDER ACCEPTING COMPLIANCE FILING

(Issued July 31, 2014)

1. In this order we accept Entergy Services, Inc.'s (Entergy's) November 29, 2013 filing, which represents Entergy's second effort to comply with Opinion No. 505-A.<sup>1</sup> Consistent with prior orders, we also direct Entergy to file a comprehensive bandwidth recalculation report showing all the updated payment/receipt amounts based on the 2006 and 2007 calendar year data, in compliance with all bandwidth formula and bandwidth calculation adjustments that the Commission has accepted or ordered for those years.

**I. Background**

2. On May 31, 2012, Entergy, on behalf of the Entergy Operating Companies,<sup>2</sup> filed proposed revisions to the bandwidth formula in section 30.12 of Service Schedule MSS-3

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<sup>1</sup> *Entergy Servs., Inc.*, Opinion No. 505-A, 139 FERC ¶ 61,103 (2012). The Commission rejected Entergy's first compliance filing on October 29, 2013. *Entergy Arkansas, Inc.*, 145 FERC ¶ 61,081 (2013) (October 29 Order).

<sup>2</sup> The Entergy Operating Companies are: Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc. and Entergy Texas, Inc.

of the Entergy System Agreement, to comply with Opinion No. 505-A.<sup>3</sup> As relevant here, Opinion No. 505-A directed Entergy to use the methodology contained in Exhibit Nos. ETR-26 and ETR-28<sup>4</sup> to remove the administrative and general expense (A&G expense) and other taxes associated with Entergy Gulf States, Inc.'s (Entergy Gulf States)<sup>5</sup> 30 percent share of River Bend nuclear facility capacity (River Bend 30) when functionalizing those costs in the 2006 bandwidth calculation.

3. In its May 31, 2012 compliance filing, Entergy noted that in Opinion No. 505-A, the Commission stated that changes to the bandwidth formula may only be made in a Federal Power Act section 205 or section 206 filing,<sup>6</sup> and not in an annual bandwidth proceeding such as this.<sup>7</sup> Entergy stated, however, that in order to comply with the requirements in Opinion No. 505-A concerning the adjustments to A&G expense and other taxes associated with River Bend 30, it had to alter the bandwidth formula by adding two new variables. Entergy argued that because Opinion No. 505-A addressed an annual bandwidth filing and because no section 206 complaint was filed on this issue, the Commission could not implement the compliance filing retroactively. Instead, Entergy proposed to make the changes in the compliance filing effective as of May 7, 2012, when the Commission issued Opinion No. 505-A.

4. By letter order issued October 29, 2013, the Commission found that there was no basis to Entergy's arguments that it must add new variables to the bandwidth formula to comply with Opinion No. 505-A's mandate to follow the methodology in Exhibit Nos. ETR-26 and ETR-28 to adjust A&G expense and other taxes for River Bend 30, and that its compliance filing therefore could not take effect on June 1, 2007, the effective

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<sup>3</sup> Opinion No. 505-A, 139 FERC ¶ 61,103 at PP 72-74.

<sup>4</sup> The Commission adopted the Ex. ETR-26 and ETR-28 methodology for calculating production costs in the bandwidth formula in Opinion Nos. 480 and 480-A. *La. Pub. Serv. Comm'n v. Entergy Serv. Co.*, Opinion No. 480, 111 FERC ¶ 61,311, at P 33, *aff'd*, Opinion No. 480-A, 113 FERC ¶ 61,282 (2005), *order on compliance*, 117 FERC ¶ 61,203 (2006), *order on reh'g and compliance*, 119 FERC ¶ 61,095 (2007), *aff'd in part and remanded in part*, *La. Pub. Serv. Comm'n v. FERC*, 522 F.3d 378 (D.C. Cir. 2008).

<sup>5</sup> In 2007, Entergy Gulf States split into Entergy Texas, Inc. and Entergy Gulf States Louisiana, L.L.C., which serve load in their respective states.

<sup>6</sup> 16 U.S.C. § 824d-e (2012).

<sup>7</sup> Opinion No. 505-A, 139 FERC ¶ 61,103 at P 38.

date of the rates in this docket. The Commission explained that in Opinion No. 505-A, it found that the bandwidth formula in Service Schedule MSS-3 does not itself detail how to remove the A&G expense and other taxes for River Bend 30; instead, the bandwidth formula provides that the adjustment be made pursuant to the production cost methodology set forth in Exhibit Nos. ETR-26 and ETR-28,<sup>8</sup> and, thus, the bandwidth formula already provides that the adjustment to remove the A&G expense and other taxes for River Bend 30 be made pursuant to the production cost methodology set forth in Exhibit Nos. ETR-26 and ETR-28. Accordingly, the Commission rejected the compliance filing and directed Entergy to file, within 30 days, revised bandwidth calculations that remove River Bend 30 A&G expense and other taxes from the bandwidth formula, in accordance with the methodology in Exhibit Nos. ETR-26 and ETR-28, effective June 1, 2007.<sup>9</sup>

5. On November 29, 2013, Entergy submitted a compliance filing that removed the River Bend 30 A&G expense and other taxes in accordance with Exhibit Nos. ETR-26 and ETR-28, effective June 1, 2007. Entergy states that it has “not yet made any true-up Bandwidth payments or receipts” because, “as it has explained in other [Bandwidth] compliance filings,” Entergy “does not believe that it is appropriate to perform Bandwidth recalculations on a piecemeal basis,” and will instead “commit . . . to file a comprehensive bandwidth recalculation report” in compliance with all applicable Commission orders.<sup>10</sup>

6. Separately, the Commission has previously held that Entergy may file one comprehensive bandwidth recalculation report to comply with the Commission’s final orders regarding the annual bandwidth calculations pending in numerous dockets.<sup>11</sup>

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<sup>8</sup> *Id.* P 72, n.126 (citing System Agreement at section 30.12, n.1: “All Rate Base, Revenue and Expense items shall ... include certain regulatory adjustments pursuant to the production cost methodology set forth in Exhibit ETR-26/ETR-28 filed in Docket No. EL01-88-001, including but not limited to: ... (2) the regulated (70%) portion of River Bend for E[ntergy] G[ulf] S[tates].”).

<sup>9</sup> October 29 Order, 145 FERC ¶ 61,081, at PP 5-6 (2013).

<sup>10</sup> Entergy November 29, 2013 Compliance Filing at 3.

<sup>11</sup> *Entergy Services, Inc.*, 142 FERC ¶ 61,011, at P 20 (2013). The Commission declined Entergy’s proposal to defer this filing until the Commission’s final orders became non-appealable, as this would unreasonably delay the recalculation. *Id.*

## **II. Notice and Responsive Filings**

7. Notice of the filing was published in the *Federal Register*, 78 Fed. Reg. 73,856 (2013), with interventions and comments due on or before December 20, 2013.

8. On December 20, 2013, the Louisiana Public Service Commission (Louisiana Commission) filed a Notice of Intervention, Protest and Motion to Compel Compliance with Commission Orders. In its pleading, the Louisiana Commission states its agreement with Entergy's bandwidth recalculations, and urges that the Commission order Entergy to reflect the results, with interest, on the Entergy Intra-System Bills. Further, the Louisiana Commission requests that the Commission sanction Entergy for its failure to follow a series of Commission orders on compliance, which, according to the Louisiana Commission, taken together, directed Entergy to: (1) file a comprehensive bandwidth recalculation report, based on 2006 calendar year data, within 45 days of the later of a final Commission order on rehearing "of Opinion Nos. 505, 506, 509, 514 and Docket No. ER12-1881-000"; and (2) include the adjustments in the first Intra-System Bill issued following the filing of the bandwidth recalculation report, with interest from June 1, 2007.<sup>12</sup> According to the Louisiana Commission, all of the rehearing orders in the affected bandwidth dockets have issued, so there is no excuse for Entergy's delay in making refunds.<sup>13</sup>

9. On January 8, 2014, Entergy filed a Motion for Leave to Answer and Answer. On January 31, 2014, the Louisiana Commission filed a Motion for Leave to Reply, Reply and Notice Regarding Stays/Delays.

## **III. Procedural Matters**

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the Louisiana Commission's notice of intervention serves to make it a party to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept the answers and will, therefore, reject them.

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<sup>12</sup> Louisiana Commission Notice of Intervention, Protest and Motion to Compel at 2-3 (citing *Entergy Servs., Inc.*, 139 FERC ¶ 61,104, at 61,721 (2012); *Entergy Servs., Inc.*, 142 FERC ¶ 61,011, at P 20 (2013); *Entergy Arkansas, Inc.*, 145 FERC ¶ 61,081, at P 6 (2013)).

<sup>13</sup> Louisiana Commission Protest and Motion to Compel at 2-3, 6-10.

#### IV. Commission Determination

11. The Commission finds that Entergy's November 29, 2013 compliance filing correctly removes the River Bend 30 A&G expense and other taxes in accordance with the methodology in Exhibit Nos. ETR-26 and ETR-28 commencing June 1, 2007, and is accepted to be effective June 1, 2007.

12. This is one of four orders that the Commission is issuing concurrently,<sup>14</sup> all related to Entergy's first and second annual bandwidth filings, which cover calendar years 2006 and 2007, respectively. The first annual bandwidth filing gave rise to Opinion No. 505;<sup>15</sup> the second annual bandwidth filing, to Opinion No. 514.<sup>16</sup> Both bandwidth filings spawned numerous complaint and compliance dockets that the Commission has reviewed at length.<sup>17</sup> With the concurrent issuance of these four orders, now is the appropriate

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<sup>14</sup> The four orders being issued concurrently include: *Entergy Services, Inc.*, 148 FERC ¶ 61,085 (2014), *Entergy Services, Inc.*, 148 FERC ¶ 61,086 (2014), *Entergy Services, Inc.*, 148 FERC ¶ 61,087 (2014), and *Entergy Arkansas, Inc., et al.*, 148 FERC ¶ 61,088 (2014).

<sup>15</sup> *Entergy Servs., Inc.*, Opinion No. 505, 130 FERC ¶ 61,023 (2010), *order on reh'g*, Opinion No. 505-A, 139 FERC ¶ 61,103, *order on compliance*, 139 FERC ¶ 61,104 (2012), *order granting clarification in part and denying clarification in part*, 145 FERC ¶ 61,045 (2013), *order on reh'g*, 145 FERC ¶ 61,046 (2013).

<sup>16</sup> *Entergy Servs., Inc.*, Opinion No. 514, 137 FERC ¶ 61,029 (2011), *order on reh'g*, Opinion No. 514-A, 142 FERC ¶ 61,013, *order on compliance filing*, 142 FERC ¶ 61,011 (2013).

<sup>17</sup> The following proceedings affect both the calendar year 2006 first annual bandwidth-recalculation and the calendar year 2007 second annual bandwidth-recalculation: Docket No. ER07-956, resulting in Opinion No. 505 (and its associated compliance filings in Docket No. ER12-1888-000, *et al.*); Docket No. ER07-682, resulting in Opinion No. 506 (and its associated compliance filings in Docket No. ER13-1673, *et al.*); Docket No. EL08-51, resulting in Opinion No. 509 (and its associated compliance filings in Docket No. ER11-2131, *et al.*); Docket No. EL07-52 (and its associated compliance filings in Docket Nos. ER12-1881, *et al.*). The following proceeding affects just the calendar year 2007 second annual bandwidth-recalculation: Docket No. ER08-1056, resulting in Opinion No. 514.

time for Entergy to recalculate and reallocate the bandwidth payments and receipts among the Operating Companies for these two bandwidth years.<sup>18</sup>

13. We therefore order Entergy to file, within 45 days of this order, a comprehensive bandwidth recalculation report showing the updated payments and receipts based on the 2006 and 2007 calendar year data in compliance with all bandwidth formula and bandwidth calculation adjustments that the Commission has accepted or ordered, effective as of June 1, 2007 and June 1, 2008, respectively, along with supporting calculations for each identified adjustment.

14. We further direct Entergy to adjust its first Intra-System Bill issued following the filing of the bandwidth recalculation report, to reflect the bandwidth recalculations for these two bandwidth years, with interest from June 1, 2007 or June 1, 2008, as appropriate, to the date of the Intra-System Bill, in accordance with section 35.19a of the Commission's regulations.<sup>19</sup>

15. We reject the Louisiana Commission's request that we order sanctions as a penalty for Entergy's purported failure to comply with Commission orders requiring Entergy to make refunds involving the first and second annual bandwidth calculations. Entergy could not have made refunds before the Commission disposed of the numerous rehearing requests and compliance filings pending in the first and second bandwidth-related dockets. Now that the Commission has disposed of those matters, Entergy shall make refunds as ordered below.

The Commission orders:

(A) Entergy's November 29, 2013 compliance filing is hereby accepted, as described in the body of the order.

(B) Within 45 days of this order, Entergy shall file a bandwidth recalculation report, as described in the body of the order.

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<sup>18</sup> If the complaint pending in *La. Pub. Serv. Comm'n v. Entergy Servs., Inc.*, Docket No. EL09-61-001, ultimately alters the payments and receipts that the Commission directs Entergy to recalculate and reallocate among the Operating Companies here, the Commission will require Entergy to make the appropriate adjustment at that time.

<sup>19</sup> 18 C.F.R. § 35.19a (2013).

(C) Entergy shall adjust its first Intra-System Bill issued following the filing of the bandwidth recalculation report, to reflect the bandwidth recalculation report, with interest, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.